

A.G. Contract No.: KR04-0289TRN
ADOT ECS File No.: JPA 04-020
Project No.: STP-TUC-0(046)A
Project: Harrison Road
Section: Speedway to Old Spanish Trail
TRACS No.: SS518 01C
Budget Source Item No.: N/A

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF TUCSON

THIS AGREEMENT is entered into 11th June, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF TUCSON acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 9-240 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The City has submitted to the Federal Highway Administration (FHWA) the request for approval of federal funds and wishes to advance the reconstruction of Harrison Road within the City, to a 4-lane divided roadway, in 2004, herein referred to as the "Project". Such federal funds, estimated at \$10,603,000.00, are identified in the Pima Association of Governments / Municipal Planning Organization (PAG/MPO) Transportation Improvement Program (TIP) / State Transportation Improvement Program (STIP) as ID# 39.00 for federal fiscal year (FFY) 2006 and 2007.

4. The City and PAG selected the Project, within the boundary of the City. The City meets the FHWA certification requirement to construct and administer the Project and will take full responsibility of all Projects costs until such time of federal reimbursement in FFY 2006 and 2007. If federal funds are not available, the City agrees to be responsible for the total cost of the Project.

5. The only interest of the State in this Project is in the acquisition of federal funds and facilitating reimbursement of said federal funds for FFY 2006 and 2007, in accordance with 23 U.S.C. 115. Upon execution of this agreement, the State will submit the Project to the FHWA for authorization to advance construction of the Project. It is understood and agreed to by the parties herein, authorization of this Project does not constitute a commitment, guarantee or obligation on the part of the State.

NO. 26884
Filed with the Secretary of State
Date Filed: 06/11/04

Janice K. Brewer
Secretary of State

By: Darryl D. Greenwald

EX A TO RESOLUTION NO. 19832

CITY OF TUCSON CONTRACT NO. 0352-04

6. The City, in order to obtain federal funds for the reconstruction of Harrison Road, is willing to advance City funds to complete the Project prior to programmed year.

7. The work embraced by this agreement is to be administered by the City, and the estimated Project costs are as follows: Reconstruct Harrison Road to a divided four-lane roadway.

Project TRACS No.: SS518 01C

Total Estimated Cost of the Project	\$13,453,000.00
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Total Estimated City Advance Funds	\$13,453,000.00
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Fiscal Year (FY) - 2006

Estimated Federal Aid Funds @ 94.3% (Cap)

Estimated City Funds @ 5.7%

FY 2006

\$8,353,000.00

\$ 504,900.00

Fiscal Year (FY) - 2007

Estimated Federal Aid Funds @ 94.3% (Cap)

Estimated City Funds @ 5.7%

Estimated City Funds @ 100%

FY 2007

\$2,250,000.00

\$ 136,002.00

\$2,209,098.00

Total Estimated City Funds (diff. between total cost and shared funds)	\$2,850,000.00
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THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The City will:

a. Upon execution of this agreement and prior to advertisement of the Project's construction contract, set aside funds in the amount of \$13,453,000.00 for the estimated total cost of the Project work provided for in this agreement, including the amount of federal aid to be reimbursed in FFY 2006 and FFY 2007.

b. Provide any required preliminary engineering and planning studies, the environmental analysis and design of the Project.

c. Be responsible for sharing the cost of construction work covered by this agreement with FHWA, each in the proportion prescribed and determined by FHWA.

d. On or after October 15, 2005, provide to the State appropriate documentation of the actual costs expended by the City for the Project work. Submit an invoice for FFY 2006 to the State for reimbursement of federal funds at (94.3%) based on the actual costs associated with the Project paid by the City.

e. On or after October 15, 2006, provide to the State appropriate documentation of the actual costs expended by the City for the Project work. Submit an invoice for FFY 2007 to the State for reimbursement of federal funds at (94.3%) based on the actual costs associated with the Project paid by the City.

f. Provide the State with documentation from the PAG at the time of authorization/obligation, committing to the conversion of federal funds, in the amount shown in the current TIP. If PAG should advance the conversion year of federal funds, and a formal approval through the Regional Council and a TIP/STIP amendment is approved, then the City will request the PAG send a letter to the State requesting conversion of funds be advanced.

2. The State will:

a. On or after October 15, 2005, reimburse to the City obligate federal funds in an amount estimated at \$8,353,000.00, for Federal Fiscal Year (FFY) 2006. However, the aforementioned reimbursement amount is subject to funds availability.

b. On or after October 15, 2006, reimburse to the City obligate federal funds in an amount estimated at \$2,250,000.00 for the FFY 2007. However, the aforementioned reimbursement amount is subject to funds availability.

c. As required by the FHWA, provide design review of the Project plans, studies and related documents, and when appropriate provide comments, which will be incorporated into the construction documents.

d. On behalf of the City, perform certain work and prepare certain documents required by the FHWA to qualify certain projects for and to receive federal funds. Such work may consist of, but is not specifically limited to, the review and approval of the City prepared environmental documents; the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities and such other related tasks essential to the achievement of the objectives of this agreement. (when specifically authorized by, for and on behalf of the City, and at no cost to the State).

e. No more than monthly, upon receipt and approval of an invoice, reimburse the City with federal funds for construction work addressed under this agreement at 94.3% of the total project cost, in October FFY 2006, and FFY 2007 respectively.

f. Not be obligated to incur any expenditure in the project, should some unforeseen conditions or circumstances increase the cost of said work required, by a change in the extent or scope of the work called for in this agreement,

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement, or for any resulting construction project. The City, in regard to the City's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. The City shall require its contractors to name the State and ADOT as an additional insured in the contractor's insurance policies. The City shall also require its contractors to name the State and ADOT as an additional indemnitee in the City's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its

departments, agencies, officers and employees the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

2. This agreement shall remain in force and effect until completion of the work and related deposits or reimbursements.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

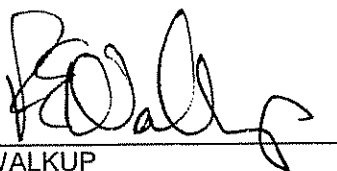
Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX: (602) 712 7424

City of Tucson
Department of Transportation -
Engineering Division
P.O. Box 27210
Tucson, AZ 85726-7210

10. Pursuant to Arizona revised Statutes Section 11-952 (D), attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF TUCSON

By 
BOB WALKUP
Mayor

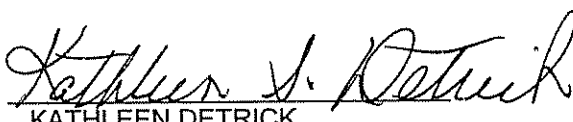
Date MAY 24 2004

STATE OF ARIZONA
Department of Transportation

By 
DALE BUSKIRK, Division Director
Transportation Planning Division

Date 6/3/04

ATTEST

By 
KATHLEEN DETRICK
City Clerk

Date MAY 24 2004

ADOPTED BY THE
MAYOR AND COUNCIL

MAY 24 2004

RESOLUTION NO. 19832

RELATING TO INTERGOVERNMENTAL AGREEMENTS; APPROVING AND
AUTHORIZING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE
STATE OF ARIZONA AND THE CITY OF TUCSON FOR FEDERAL FUNDS
FOR CONSTRUCTION OF HARRISON ROAD, SPEEDWAY BOULEVARD TO
OLD SPANISH TRAIL; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF
TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Intergovernmental between the State of Arizona and
the City of Tucson for federal funds for construction of Harrison Road, Speedway
Boulevard to Old Spanish Trail, attached hereto as Exhibit A, is approved.

SECTION 2. The Mayor is hereby authorized and directed to execute
said Intergovernmental Agreement for and on behalf of the City of Tucson and the City
Clerk is directed to attest the same.

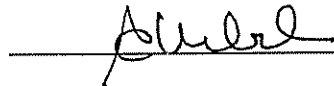
SECTION 3. The various City officers and employees are authorized and
directed to perform all acts necessary or desirable to give effect to this resolution.

SECTION 4. WHEREAS, it is necessary for the preservation of the
peace, health and safety of the City of Tucson that this resolution become immediately

APPROVAL OF THE CITY OF TUCSON ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF TUCSON, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 12 day of April, 2004.



City Attorney



TERRY GODDARD
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

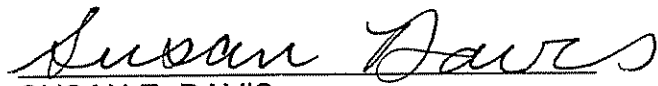
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-0289TRN (**JPA 04-020**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: June 7, 2004

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED/mjf
Attachment
847670

CITY OF TUCSON
SECRETARY OF STATE
INTERGOVERNMENTAL AGREEMENT (IGA) INFORMATION SUMMARY FORM

This form is to be completed and attached to each Intergovernmental Agreement submitted for filing with the Secretary of State.

IGA BETWEEN THE CITY OF TUCSON AND THE STATE OF ARIZONA

DATE May 24, 2004

CONTRACT NUMBER 0352-04

IS THIS AN ORIGINAL CONTRACT? Yes

IF AMENDMENT, FILE DATE OF ORIGINAL CONTRACT N/A

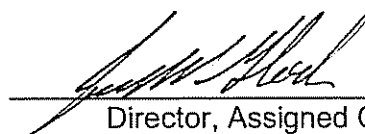
IF AMENDMENT, SECRETARY OF STATE ORIGINAL FILE NUMBER N/A

EXPIRATION DATE OF CONTRACT N/A

IF NO EXPIRATION DATE, IS CONTRACT INDEFINITELY ONGOING? N/A

OTHER PROVISION FOR EXPIRATION? Upon completion of the work and related deposits and reimbursements

ORIGINAL COPIES MUST HAVE ORIGINAL SIGNATURES


Director, Assigned City Department